

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL COUSIN,

Plaintiff,

-v-

ANSWER

Case No.: 6:23-cv-06349

THE CITY OF ROCHESTER, JOSHUA WOODWARD,
ALEC KONRAD, JOHN SOURES, RYAN CASTRACHINI,
JOES HASPER, "JOHN DOE POICE OFFICERS 1-20"
(names and number of whom are unknown at present),
JTJ EAST INC doing business as BRASS BAR & LOUNGE,
PETER BANDULJ,

Defendants.

The Defendants, the City of Rochester, Alec Konrad, John Soures, Ryan Castrachini, and Joel Hasper, as and for their Answer to the Complaint dated May 31, 2023, state upon information and belief as follows:

1. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 1 of the Complaint.
2. They deny the allegations contained in paragraph 2 of the Complaint that the City "assumes the risks incidental to the maintenance of a police force and employment of police officers, as said risks attach to the public consumers of the services provided by the RPD," but admit the remaining allegations.
3. They deny the allegations contained in paragraph 3 of the Complaint that the City "assumes the risks incidental to the maintenance of a police force and employment of police officers, as said risks attach to the public consumers of the services provided by the RPD," but admit the remaining allegations.

4. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 4 as to John Doe Officers 1– 20, but admit the remaining allegations.

5. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 5 of the Complaint.

6. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 6 of the Complaint.

7. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 7 of the Complaint.

8. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 8 of the Complaint.

9. They deny the allegations contained in paragraph 9 of the Complaint.

10. They deny that these answering Defendants are responsible for any damages sustained by Plaintiff.

11. They admit the allegations contained in paragraph 11 of the Complaint.

12. They admit the allegations contained in paragraph 12 of the Complaint.

13. They admit the allegations contained in paragraph 13 of the Complaint.

14. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 14 of the Complaint.

15. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 15 of the Complaint.

16. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 16 of the Complaint.

17. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 17 of the Complaint.

18. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 18 of the Complaint.

19. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 19 of the Complaint.

20. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 20 of the Complaint.

21. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 21 of the Complaint.

22. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 22 of the Complaint.

23. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 23 of the Complaint.

24. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 24 of the Complaint.

25. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 25 of the Complaint.

26. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 26 of the Complaint.

27. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 27 of the Complaint.

28. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 28 of the Complaint.

29. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 29 of the Complaint.

30. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph of the Complaint.

31. They deny the allegations contained in paragraph 31 of the Complaint.

32. They deny the allegations contained in paragraph 32 of the Complaint.

33. They deny the allegations contained in paragraph 33 of the Complaint.

34. They deny the allegations contained in paragraph 34 of the Complaint.

35. They deny the allegations contained in paragraph 35 of the Complaint.

36. They deny the allegations contained in paragraph 36 of the Complaint.

37. They deny the allegations contained in paragraph 37 of the Complaint.

38. They deny the allegations contained in paragraph 38 of the Complaint.

39. They deny the allegations contained in paragraph 39 of the Complaint.

40. They deny the allegations contained in paragraph 40 of the Complaint.

41. They deny the allegations contained in paragraph 41 of the Complaint.

42. They deny the allegations contained in paragraph 42 of the Complaint

43. They deny the allegations contained in paragraph 43 of the Complaint.

44. They deny the allegations contained in paragraph 44 of the Complaint.

45. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 45 of the Complaint.

46. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 46 of the Complaint.

47. They deny the allegations contained in paragraph 47 of the Complaint.

48. They deny the allegations contained in paragraph 48 of the Complaint.

49. They admit the allegations contained in paragraph 49 of the Complaint.

50. They deny the allegations contained in paragraph 50 of the Complaint.

51. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 51 of the Complaint.

52. They admit co-defendant reported to the police that Plaintiff was suspected of having or threatening to use a gun, but lack knowledge or information as to whether this was a retaliatory act by co-defendant Bandulj.

53. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 53 of the Complaint.

54. They deny the allegations contained in paragraph 54 of the Complaint.

55. With respect to paragraph 55 of the Complaint, wherein the Plaintiff incorporates by reference all preceding and subsequent paragraphs, the answering Defendants likewise here repeat and re-allege each and every response to that paragraphs, as more fully set forth herein.

56. They deny the allegations contained in paragraph 56 of the Complaint.

57. They deny the allegations contained in paragraph 57 of the Complaint.

58. With respect to paragraph 58 of the Complaint, wherein the Plaintiff incorporates by reference all preceding and subsequent paragraphs, the answering

Defendants likewise here repeat and re-allege each and every response to those paragraphs, as more fully set forth herein.

59. They deny the allegations contained in paragraph 59 of the Complaint.

60. They deny the allegations contained in paragraph 60 of the Complaint.

61. They deny the allegations contained in paragraph 61 of the Complaint.

62. They deny the allegations contained in paragraph 62 of the Complaint.

63. They deny the allegations contained in paragraph 63 of the Complaint.

64. They deny the allegation contained in paragraph 64 of the Complaint.

65. With respect to paragraph 65 of the Complaint, wherein the Plaintiff incorporates by reference all preceding and subsequent paragraphs, the answering Defendants likewise here repeat and re-allege each and every response to those paragraphs, as more fully set forth herein.

66. They admit that the individual officer Defendants acted under color of law, but deny the remaining allegations contained in paragraph 66 of the Complaint.

67. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 67 of the Complaint.

68. They deny the allegations contained in paragraph 68 of the Complaint as they relate to these answering Defendants.

69. They deny the allegations contained in paragraph 69 of the Complaint as they relate to these answering Defendants.

70. They deny the allegations contained in paragraph 70 of the Complaint as they relate to these answering Defendants.

71. They deny the allegations contained in paragraph 71 of the Complaint as they relate to these answering Defendants.

72. They deny the allegations contained in paragraph 72 of the Complaint as they relate to these answering Defendants.

73. With respect to paragraph 73 of the Complaint, wherein the Plaintiff incorporates by reference all preceding and subsequent paragraphs, the answering Defendants likewise here repeat and re-allege each and every response to those paragraphs, as more fully set forth herein.

74. They admit that Plaintiff was arrested by Defendant based upon the probable cause provided by the supporting deposition supplied by the co-Defendant, but they deny the allegations as they relate to the remaining individual answering Defendants.

75. They admit that the Plaintiff was arrested as a result of the information supplied by the co-Defendant, but lack knowledge or information as to whether the information was false or what the co-Defendants' motivation was.

76. They admit the allegations contained in paragraph 76 of the Complaint.

77. They deny the allegations contained in paragraph 77 of the Complaint.

78. They deny the allegations contained in paragraph 78 of the Complaint.

79. They deny the allegations contained in paragraph 79 of the Complaint.

80. They admit the allegations contained in paragraph 80 of the Complaint.

81. They admit the allegations contained in paragraph 81 of the Complaint.

82. They deny the allegations contained in paragraph 82 of the Complaint as they relate to these answering Defendants.

83. They deny the allegations contained in paragraph 83 of the Complaint.

84. They deny the allegations contained in paragraph 84 of the Complaint.

85. With respect to paragraph 85 of the Complaint, wherein the Plaintiff incorporates by reference all preceding and subsequent paragraphs, the answering Defendants likewise here repeat and re-allege each and every response to those paragraphs, as more fully set forth herein.

86. They deny the allegations contained in paragraph 86 of the Complaint.

87. They admit that the Plaintiff was arrested as a result of the information supplied by the co-Defendant, but lack knowledge or information as to whether the information was false or what the co-Defendants' motivation was.

88. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 88 of the Complaint.

89. They deny the allegations contained in paragraph 89 of the Complaint.

90. As to paragraph 90 of the Complaint, they deny the allegations as they relate to these answering Defendants.

91. As to paragraph 91 of the Complaint, they deny the allegations as they relate to these answering Defendants.

92. As to paragraph 92 of the Complaint, they deny the allegations as they relate to these answering Defendants.

93. They deny the allegations contained in paragraph 93 of the Complaint.

94. With respect to paragraph of the Complaint, wherein the Plaintiff incorporates by reference all preceding and subsequent paragraphs, the answering

Defendants likewise here repeat and re-allege each and every response to those paragraphs, as more fully set forth herein.

95. As to paragraph 95 of the Complaint, they deny the allegations as they relate to these answering Defendants.

96. As to paragraph 96 of the Complaint, they deny the allegations as they relate to these answering Defendants.

97. As to paragraph 97 of the Complaint, they deny the allegations as they relate to these answering Defendants

98. As to paragraph 98 of the Complaint, they deny the allegations as they relate to these answering Defendants.

99. As to paragraph 99 of the Complaint, they deny the allegations as they relate to these answering Defendants.

100. They deny the allegations contained in paragraph 100 of the Complaint.

101. They deny the allegations contained in paragraph 101 of the Complaint.

102. With respect to paragraph 102 of the Complaint, wherein the Plaintiff incorporates by reference all preceding and subsequent paragraphs, the answering Defendants likewise here repeat and re-allege each and every response to those paragraphs, as more fully set forth herein.

103. They deny the allegations contained in paragraph 103 of the Complaint.

104. They deny the allegations contained in paragraph 104 of the Complaint.

105. They deny the allegations contained in paragraph 105 of the Complaint.

106. They deny the allegations contained in paragraph 106 of the Complaint.

107. They deny the allegations in paragraph 107 of the Complaint as they relate to these answering Defendants.

108. They deny the allegations contained in paragraph 108 of the Complaint.

109. With respect to paragraph 109 of the Complaint, wherein the Plaintiff incorporates by reference all preceding and subsequent paragraphs, the answering Defendants likewise here repeat and re-allege each and every response to those paragraphs, as more fully set forth herein.

110. As to paragraph 110 of the Complaint, this allegation is a characterization of a body of law and the Defendants state the court will take judicial notice of any and all applicable laws and therefore Defendants need not respond to the allegation.

111. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 111 of the Complaint.

112. They admit the allegations contained in paragraph 112 of the Complaint.

113. As to paragraph 113 of the Complaint, this allegation is a characterization of a body of law and the Defendants state the court will take judicial notice of any and all applicable laws and therefore defendants need not respond to the allegation.

114. As to paragraph 114 of the Complaint, this allegation is a mixed characterization of a body of law and fact and the Defendants state the court will take judicial notice of any and all applicable laws and its applicability to the co-Defendant and, therefore, the answering Defendants need not respond to the allegation.

115. As to paragraph 115 of the Complaint, this allegation is a mixed characterization of a body of law and fact and the defendants state the court will take

judicial notice of any and all applicable laws and its applicability to the co-Defendant and, therefore, answering Defendants need not respond to the allegation.

116. As to paragraph 116 of the Complaint, the answering Defendants admit that plaintiff was arrested by reason of information supplied by the co-Defendants, but otherwise deny knowledge or information to form a belief as to the accuracy of the remaining allegations.

117. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 117 of the Complaint.

118. With respect to paragraph 118 of the Complaint, wherein the Plaintiff incorporates by reference all preceding and subsequent paragraphs, the answering Defendants likewise here repeat and re-allege each and every response to those paragraphs, as more fully set forth herein.

119. They deny the allegations contained in paragraph 119 of the Complaint.

120. As to paragraph 120 of the Complaint, the answering Defendants admit that the Plaintiff was arrested as a result of the information supplied by the co-Defendant, but lack knowledge or information as to whether the information was false or what the co-Defendants' motivation was.

121. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 121 of the Complaint.

122. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 122 of the Complaint.

123. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 123 of the Complaint.

124. They deny the allegations contained in paragraph 124 of the Complaint.
125. They deny the allegations contained in paragraph 125 of the Complaint.
126. They admit the allegations contained in paragraph 126 of the Complaint.
127. As to paragraph 127 of the Complaint, they deny that the individual Defendants committed any wrongdoing and therefore, deny the City is responsible.
128. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 128 of the Complaint.
129. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 129 of the Complaint.
130. They deny the allegations contained in paragraph 130 of the Complaint.
131. As to paragraph 131 of the Complaint, they deny the allegations as they apply to these answering Defendants.
 132. They deny the allegations contained in paragraph 132 of the Complaint.
 133. With respect to paragraph 133 of the Complaint, wherein the Plaintiff incorporates by reference all preceding and subsequent paragraphs, the answering Defendants likewise here repeat and re-allege each and every response to those paragraphs, as more fully set forth herein
 134. They admit the allegations contained in paragraph 134 of the Complaint.
 135. As to paragraph 135 of the Complaint, the answering Defendants admit that co-Defendant caused Plaintiff's arrest, but lack knowledge or information to form a belief as to the reasons therefore, but deny these answering defendants were acting in concert with the co-Defendant.
 136. They admit the allegations contained in paragraph 136 of the Complaint.

137. They deny the allegations contained in paragraph 137 of the Complaint.
138. They deny the allegations contained in paragraph 138 of the Complaint.
139. They deny the allegations contained in paragraph 139 of the Complaint.
140. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 140 of the Complaint.
141. They admit the allegations contained in paragraph 141 of the Complaint.
142. They deny the allegations contained in paragraph 142 of the Complaint.
143. They admit paragraph 143 of the Complaint as to the State Law Claims.
144. They admit paragraph 144 of the Complaint as to the State law Claims.
145. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 145 of the Complaint.
146. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 146 of the Complaint.
147. They deny the allegations in paragraph 147 of the Complaint as to these answering Defendants.
148. They deny the allegations contained in paragraph 148 of the Complaint.
149. With respect to paragraph 149 of the Complaint, wherein the Plaintiff incorporates by reference all preceding and subsequent paragraphs, the answering Defendants likewise here repeat and re-allege each and every response to those paragraphs, as more fully set forth herein.
150. They deny the allegations contained in paragraph 150 of the Complaint.

151. They admit that the co-Defendant caused Plaintiff's arrest and prosecution but lack knowledge or information to form a belief as to the reasons therefore, but deny that these answering Defendants were acting in concert with the co-Defendant.

152. They deny the allegations contained in paragraph 152 of the Complaint.

153. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 153 of the Complaint.

154. They deny the allegations contained in paragraph 154 of the Complaint.

155. They deny the allegations contained in paragraph 155 of the Complaint.

156. As to paragraph 156 of the Complaint, they admit as to the State law claims.

157. As to paragraph 157 of the Complaint, they admit as to the State law claims.

158. As to paragraph 158 of the Complaint, they deny as to these answering Defendants.

159. They deny the allegations contained in paragraph 159 of the Complaint.

160. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 160 of the Complaint.

161. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 161 of the Complaint.

162. As to paragraph 162 of the Complaint, they deny as to these answering Defendants.

163. They deny the allegations contained in paragraph 163 of the Complaint.

164. They admit the allegations contained in paragraph 164 of the Complaint.

165. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 165 of the Complaint.

166. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 166 of the Complaint.

167. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 167 of the Complaint.

168. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 168 of the Complaint.

169. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 169 of the Complaint.

170. With respect to paragraph 170 of the Complaint, wherein the Plaintiff incorporates by reference all preceding and subsequent paragraphs, the answering Defendants likewise here repeat and re-allege each and every response to those paragraphs, as more fully set forth herein.

171. This allegation is a characterization of a body of law and the Defendants state the court will take judicial notice of any and all applicable laws and, therefore, Defendants need not respond to the allegation.

172. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 172 of the Complaint.

173. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 173 of the Complaint.

174. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 174 of the Complaint.

175. With respect to paragraph 175 of the Complaint, wherein the Plaintiff incorporates by reference all preceding and subsequent paragraphs, the answering Defendants likewise here repeat and re-allege each and every response to those paragraphs, as more fully set forth herein.

176. This allegation is a characterization of a body of law and the Defendants state the court will take judicial notice of any and all applicable laws and, therefore, Defendants need not respond to the allegation

177. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 177 of the Complaint.

178. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 178 of the Complaint.

179. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 179 of the Complaint.

180. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 180 of the Complaint.

181. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 181 of the Complaint.

182. They deny knowledge or information sufficient to form a belief as to the accuracy of the allegations contained in paragraph 182 of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE,
THE ANSWERING DEFENDANTS STATE:**

183. The individual Defendants are entitled to qualified immunity from suit as a matter of law because:

- A. No clearly established constitutional right was violated.

B. The Defendants' actions were objectively reasonable under the circumstances.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE,
THE ANSWERING DEFENDANTS STATE:**

184. The individual Defendants are entitled to immunity from continuation of this action upon the grounds that they acted in the good-faith belief that their actions constituted a reasonable exercise of their duties, discretion and judgment and did not breach or infringe upon the Plaintiff's constitutional rights as would be known by a reasonable person to exist at the time and the circumstances then and there existing.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE,
THE ANSWERING DEFENDANTS STATE:**

185. If this action is ever construed to be against the City of Rochester for the actions of its employees, the official actions of the City of Rochester and its employees, agents or representatives, jointly and severally constituted good faith exercise of discretion and judgment, for which the City of Rochester and its employees, agents or representatives are immune from common-law liability.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE,
THE ANSWERING DEFENDANTS STATE:**

186. The Complaint fails to sufficiently allege that any of the individual Defendants acted maliciously, wantonly or in a manner which manifested a gross deviation from the standard of conduct which a reasonable person would follow under the circumstances then and there existing and therefore the demand for punitive damages must be dismissed.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE,
THE ANSWERING DEFENDANTS STATE:**

187. That all conduct by the City of Rochester, or by its officers, employees, agents or representatives was justified under the circumstances then and there existing; was privileged conduct in the performance of Defendant's police function; was

supported by reasonable cause; and was reasonably necessary to the performance of its duties and was in accordance with the requirements of law.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE,
THE ANSWERING DEFENDANTS STATE:**

188. Any force allegedly used did not rise to the level of a constitutional violation. That the force, if any, used on the Plaintiff was reasonable and necessary under the circumstances then and there existing.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE,
THE ANSWERING DEFENDANTS STATE**

189. Plaintiff's damages and injuries were occasioned by his own culpable conduct and any award must be reduced proportionately.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE,
THE ANSWERING DEFENDANTS STATE**

190. Plaintiff failed to mitigate his damages.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE,
THE ANSWERING DEFENDANTS STATE**

191. Plaintiff's damages were occasioned by the wrongful conduct of individuals not parties to this action and Defendants are entitled to a set off for the proportionate fault of such individuals

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE,
THE ANSWERING DEFENDANTS STATE:**

192. The individual defendants did not have a realistic opportunity to intervene and in any event were unaware plaintiffs rights were being violated

**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE,
THE ANSWERING DEFENDANTS STATE:**

193. That the City of Rochester did not authorize, condone, permit or ratify any allegedly improper or malicious conduct on the part of any person or adopt any policy

authorizing or condoning any such conduct or any unconstitutional custom, policy or practice.

**AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE,
THE ANSWERING DEFENDANTS STATE**

194. Damages against the Defendants as to any state law claims must be reduced in accordance with Article 16 of the Civil Practice law & Rules

**AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE,
THE ANSWERING DEFENDANTS STATE**

195. Plaintiff's damages, if any, shall be reduced by any collateral source payment Plaintiff received or is or was eligible.

**AFFIRMATIVE DEFENSE AND CROSS CLAIM
VERSUS BANDULJ and JTJ EAST, INC.
d/b/a BRASS BAR & LOUNGE**

196. To the extent any action of these answering Defendants might have liability imposed upon them, said liability is a direct and proximate result of the acts or omissions of the he co-defendants.

197. The answering Defendants are therefore entitled to be indemnified in whole or in part for any such liability or judgment against them by the co-defendants.

**AFFIRMATIVE DEFENSE AND CROSS CLAIM
VERSUS BANDULJ and JTJ EAST, INC.
d/b/a BRASS BAR & LOUNGE**

198. To the extent any action of these Answering Defendants might have liability imposed upon them, said liability is a direct and proximate result of the acts or omissions of the he co-Defendants.

199. The Answering Defendants are therefore entitled to contribution in whole or in part for that portion of liability attributable to the co-defendants.

WHEREFORE, the Answering Defendants demand:

- (1) Judgment dismissing the complaint;
- (2) A trial by jury if the case is not dismissed;
- (3) In the event of any liability versus the Answering Defendants, then Indemnity or Contribution from the co-Defendant, JTJ East, Inc and/or BandJul
- (4) The costs and disbursements of this action; and
- (5) Such other, further and appropriate relief which the Court deems just and proper.

Dated: June 28, 2023

LINDA S. KINGSLEY, Corporation Counsel

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